

Remarks

Interview summary

The Examiner granted Applicant a phone interview on January 27, 2010 during which the undersigned and inventor, Dr. Josef Prassler, participated. The Lohning et al. and Burger et al. references were discussed. During the interview, Applicant presented the following two publications: Stéphanie Fallot et al., Nucleic Acids Research, 37:20, e134 (2009) (attached as EXHIBIT A) and Bryce Carey et al., PNAS, 106:1, pages 157-162 (2009) (attached as EXHIBIT B). The Examiner agreed that Burger et al. does not serve as a basis for a §103(a) rejection.

Claims

Claims 1-19 are pending.

Response to §103(a) Rejection

The Examiner rejects claims 1-19 under 35 U.S.C. §103(a) as being unpatentable over Lohning et al. (US20020034733) in view of Burger et al. (Appl. Microbiol. Biotechnol. (1999) 52:345-353).

During the interview held on January 27, 2010, Examiner agreed that the Burger et al. reference does not serve as a basis for a §103(a) rejection, therefore, applicant respectfully requests that this rejection be withdrawn.

In review of Applicant's RCE filed on September 3, 2009, Applicant realizes that an error was made. Page 8, lines 15-18, of Applicant's RCE stated: "In addition, multiple clones, 1-8, 3-1, and 3-3 failed to reveal any protein equivalent to the heavy chain Ig (page 348, column 2). Burger et al. found that only one tricistronic clone was notably productive, clone 3-2 (page 348, column 2)." These statements were made in error as clones 3-1, 3-2, and 3-3 were generated using monocistronic vectors. The first sentence is found at page 348, column 2, lines 28-30. The second sentence is found at page 348, column 2, lines 41-42. These statements were made in error and without intent to deceive the Examiner.

CONCLUSION

In view of the foregoing arguments, Applicants respectfully submit that the application is in condition for allowance. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the undersigned to expedite prosecution of the application.

The Commissioner is hereby authorized by this paper to charge any fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-4520. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. §1.136(a)(3).**

Respectfully submitted,

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